

CHARLES ROPER 8/25/2020

Page 1		Page 3	
1	UNITED STATES DISTRICT COURT	1	UNITED STATES DISTRICT COURT
2	EASTERN DISTRICT OF MISSOURI	2	EASTERN DISTRICT OF MISSOURI
3	SOUTHEASTERN DIVISION	3	SOUTHEASTERN DIVISION
4		4	
5		5	ROBIN MESEY and JENNIFER MESEY,)
6	ROBIN MESEY and JENNIFER MESEY,)	6	Plaintiffs,)
7	Plaintiffs,)	7	vs.)
8	vs.)	8	CITY OF VAN BUREN, MISSOURI, et)Case No. 1:19-CV-71 SNLJ
9	CITY OF VAN BUREN, MISSOURI, et)Case No. 1:19-CV-71 SNLJ	9	al.,)
10	al.,)	10	Defendants.)
11	Defendants.)	11	
12		12	DEPOSITION OF CHARLES ROPER, produced,
13		13	sworn and examined on AUGUST 25, 2020, between the
14		14	hours of eight o'clock in the forenoon and six o'clock
15	DEPOSITION OF CHARLES ROPER	15	in the afternoon of that day, at the Phelps County
16	TAKEN ON BEHALF OF THE PLAINTIFF	16	Courthouse, 200 North Main Street, Rolla, Missouri,
17	AUGUST 25, 2020	17	before Sarah J. Pokorski, a Certified Court Reporter
18		18	and Notary Public within and for the State of
19		19	Missouri, in a certain cause now pending in the United
20		20	States District Court, Eastern District of Missouri,
21		21	Southeastern Division, between ROBIN MESEY and
22		22	JENNIFER MESEY, Plaintiffs vs. CITY OF VAN BUREN,
23		23	MISSOURI, et al., Defendants; on behalf of the
24		24	Plaintiffs.
25		25	

Page 2		Page 4	
1	I N D E X	1	A P P E A R A N C E S
2		2	
3	QUESTIONS BY: PAGE	3	For the Plaintiffs:
4	Mr. Schottel 5	4	Schottel & Associates, P.C.
5	Mr. Phillips 53	5	James W. Schottel, Jr.
6	Mr. Schottel 57	6	906 Olive Street
7		7	St. Louis, Missouri 63101
8		8	314-421-0350
9		9	jwsj@schotteljustice.com
10		10	
11	EXHIBITS	11	For the Defendants:
12		12	Fisher, Patterson, Sayler & Smith, LLP
13	EXHIBIT PAGE	13	Portia C. Kayser
14	1 15	14	1010 Market Street
15	2 16	15	Suite 1650
16	3 17	16	St. Louis, Missouri 63101
17	4 17	17	314-561-3675
18	5 17	18	pkayser@fisherpatterson.com
19		19	
20	(Exhibits retained by Mr. Schottel.)	20	Keck & Phillips, LLC
21		21	Damon S. Phillips
22		22	3140 East Division Street
23		23	Springfield, Missouri 65802-2408
24		24	417-890-8989
25		25	damon@kpwlawfirm.com

1 (Pages 1 to 4)

ALARIS LITIGATION SERVICES

www.alaris.us

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Fax: 314.644.1334

EXHIBIT A

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<p style="text-align: right;">Page 5</p> <p>1 IT IS HEREBY STIPULATED AND AGREED by and</p> <p>2 between counsel for the Plaintiffs and counsel for the</p> <p>3 Defendants that this deposition may be taken in</p> <p>4 shorthand by Sarah J. Pokorski, CCR, a Certified Court</p> <p>5 Reporter and Notary Public, and afterwards transcribed</p> <p>6 into typewriting; and the signature of the witness is</p> <p>7 expressly reserved.</p> <p>8 *****</p> <p>9 CHARLES ROPER,</p> <p>10 Of lawful age, produced, sworn and examined on behalf</p> <p>11 of the plaintiff, deposes and says:</p> <p>12</p> <p>13 (Starting time of the deposition: 2:56 p.m.)</p> <p>14</p> <p>15 DIRECT EXAMINATION</p> <p>16 QUESTIONS BY MR. SCHOTTEL:</p> <p>17 Q. Good afternoon. Could you state and spell</p> <p>18 your name, please.</p> <p>19 A. Charles Roper. And spell my whole name, or</p> <p>20 just last name?</p> <p>21 Q. Last name is fine.</p> <p>22 A. R-O-P-E-R.</p> <p>23 Q. Okay. And your middle name?</p> <p>24 A. Lee.</p> <p>25 Q. And are you married?</p>	<p style="text-align: right;">Page 7</p> <p>1 Q. And at some point did you begin working as a</p> <p>2 police officer for the City of Van Buren?</p> <p>3 A. Yes.</p> <p>4 Q. What year was that?</p> <p>5 A. It would have been in 2016 also.</p> <p>6 Q. Are you still a police officer with the City</p> <p>7 of Van Buren?</p> <p>8 A. I am again. Yeah.</p> <p>9 Q. What -- so from 2016 to current, was there a</p> <p>10 lapse of you working for the City of Van Buren?</p> <p>11 A. Yeah.</p> <p>12 Q. And what time frame --</p> <p>13 A. I quit there at the City in 2017 after the</p> <p>14 flood.</p> <p>15 Q. And when did you start working again?</p> <p>16 A. 2019. Yeah.</p> <p>17 Q. With the City of Van Buren Police Department,</p> <p>18 what ranks have you held?</p> <p>19 A. Officer.</p> <p>20 Q. And I forgot the question -- to ask it at the</p> <p>21 beginning. We always have to ask. Are you under the</p> <p>22 influence of any substance, whether prescription or</p> <p>23 non-prescription, that would affect your ability to</p> <p>24 understand my questions?</p> <p>25 A. No, sir.</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Yes.</p> <p>2 Q. And what's your wife's name?</p> <p>3 A. Donna Roper.</p> <p>4 Q. What's the highest grade of education you've</p> <p>5 completed?</p> <p>6 A. I've got some college.</p> <p>7 Q. And have you had any specialized training?</p> <p>8 A. Yeah. I'm an EMT and a police officer.</p> <p>9 Q. Where did you get your training to become a</p> <p>10 police officer?</p> <p>11 A. At Three Rivers Community College.</p> <p>12 Q. What city is that in?</p> <p>13 A. Poplar Bluff.</p> <p>14 Q. And when did you first become a licensed</p> <p>15 police officer? Just a year is fine.</p> <p>16 A. I think it was 2016.</p> <p>17 Q. And who was your first law enforcement</p> <p>18 employment with?</p> <p>19 A. I -- it would be the Carter County Sheriff's</p> <p>20 Office.</p> <p>21 Q. And do you still work for Carter County</p> <p>22 Sheriff's --</p> <p>23 A. No.</p> <p>24 Q. Why did that employment end?</p> <p>25 A. I was offered more money.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. We all assume that, but we have to ask it</p> <p>2 anyway. What year were you born?</p> <p>3 A. 1984.</p> <p>4 MR. SCHOTTEL: Can we go off the record for</p> <p>5 a second.</p> <p>6 MS. KAYSER: Yes.</p> <p>7 (OFF THE RECORD.)</p> <p>8 MR. SCHOTTEL: Back on the record.</p> <p>9 Q. (BY MR. SCHOTTEL.) My name is James</p> <p>10 Schottel, Jr. I am the attorney for the -- I say</p> <p>11 their last name wrong. You guys looked surprised, but</p> <p>12 I -- the Meseys, I believe, and -- in this lawsuit</p> <p>13 against yourself, against the City, and the chief.</p> <p>14 I'm going to be asking you a series of questions like</p> <p>15 I have. You've done a good job of giving a verbal</p> <p>16 response. I know you have a mask on, so if the court</p> <p>17 reporter has any issues hearing, we may have to scoot</p> <p>18 you closer, ask you to speak louder, because the court</p> <p>19 reporter's taking everything down today. The other</p> <p>20 kind of basic rules -- and all of us have gone through</p> <p>21 these when -- when they took my client's deposition --</p> <p>22 is to try to wait until I finish my answer, and then</p> <p>23 give your answer, even if you know what the answer is.</p> <p>24 Oftentimes, people are eager to answer a question, oh,</p> <p>25 I know this -- this one, I'm going to answer it.</p>

2 (Pages 5 to 8)

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1 Because when we're talking over each other, it doesn't
 2 look good on the -- on the transcript. Because like I
 3 said, the court reporter's taking everything down,
 4 so -- fair enough?
 5 A. Fair enough.
 6 Q. All right. Like I said, I don't expect this
 7 deposition to take very long, but if you'd like to
 8 take a break for any reason, use the restroom,
 9 whatever it may be, just let us know, and we can take
 10 a break at that time. In your employment with the
 11 City of Van Buren, what are your basic duties as a
 12 police officer?
 13 A. I protect the citizens of Van Buren.
 14 Q. And what I was trying to get at is you're
 15 basically a patrol officer. Is that correct?
 16 A. Yes, sir.
 17 Q. Okay. And do you have your own vehicle?
 18 A. No. We share vehicles.
 19 Q. Okay. So when you patrol the streets, you
 20 have a partner, or do you just use someone else's car?
 21 Is that what you mean by share?
 22 A. We have -- we have three vehicles there, and
 23 we all share those three vehicles. And I -- I work by
 24 myself. Everybody else works by theirself.
 25 Q. Okay. That's what I was getting at. Because

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1 it's different with every department, so -- can we
 2 take a break real quick.
 3 MS. KAYSER: Sure.
 4 (OFF THE RECORD.)
 5 MR. SCHOTTEL: Okay. Back on the record.
 6 Q. (BY MR. SCHOTTEL.) All right. Before we --
 7 I asked you about your training. And can you
 8 briefly -- well, first, who conducted your training
 9 when you became a police officer?
 10 A. The Missouri Sheriff's Association.
 11 Q. Okay. And is that -- that was the one on --
 12 in Poplar Bluff. Right?
 13 A. Yes, sir.
 14 Q. Did you receive any additional training from
 15 the City of Van Buren?
 16 A. We have to do 24 hours a year of CEUs.
 17 Q. Yeah. Can you -- before you became a police
 18 officer, can you describe the training you went
 19 through on using a firearm as a police officer.
 20 A. What do you mean? Because I don't -- I don't
 21 understand what you mean.
 22 Q. All right. I'm assuming in Poplar Bluff when
 23 you went through the training course, they had some
 24 training with -- relating to firearms. Is that
 25 correct?

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1 A. Yes, sir.
 2 Q. Okay. And can you describe what that
 3 training consisted of. Did you fire at targets? You
 4 know, did they teach you -- you know, what did they
 5 teach you? That's what I was trying to get to.
 6 A. We -- we fired at paper targets at multiple
 7 different ranges. We had a stress course that
 8 involved shooting where we had to get our heart rate
 9 up, run and shoot, stuff like that.
 10 Q. And in your training, what kind of firearm
 11 did you use?
 12 A. I had a Glock 22.
 13 Q. Okay. Is that a common firearm with police
 14 departments nowadays?
 15 A. I -- not necessarily. I mean, everybody kind
 16 of carries what they want.
 17 Q. Okay. Do you currently carry a Glock 22?
 18 A. No, sir.
 19 Q. Okay. What do you carry now?
 20 A. I have a Glock 21.
 21 Q. Okay. I believe the date of the incident
 22 subject to this case was April 22nd, 2019. Does that
 23 sound right?
 24 A. No.
 25 Q. Okay.

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1 A. It was before then.
 2 Q. Maybe -- that was maybe a date this report
 3 was prepared.
 4 MR. PHILLIPS: Jim, if it helps --
 5 MR. SCHOTTEL: Yeah. I just don't have it
 6 off the top of my head.
 7 MR. PHILLIPS: My understanding is that
 8 your complaint of incident was February 22nd, 2019.
 9 Does that sound right?
 10 Q. (BY MR. SCHOTTEL.) Does that sound right to
 11 you to the date of the incident, according to your --
 12 MR. PHILLIPS: Hold on. Let's --
 13 MR. SCHOTTEL: I just want to make sure
 14 we're all --
 15 MR. PHILLIPS: Why don't we go off the
 16 record.
 17 MR. SCHOTTEL: Sure.
 18 (OFF THE RECORD.)
 19 MR. SCHOTTEL: Back on the record.
 20 Q. (BY MR. SCHOTTEL.) After reviewing the
 21 records, does February 22nd, 2019 -- does that sound
 22 about right for the date of the incident that's the
 23 subject of this case?
 24 A. Yes, sir.
 25 Q. Okay. Were you carrying a firearm that day?

3 (Pages 9 to 12)

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1 A. The date of the incident? Yes, sir.
 2 **Q. Okay. And where were you -- where on your**
 3 **person were you carrying it?**
 4 A. On my right hip.
 5 **Q. Okay. And I'm assuming you wear a holster on**
 6 **your right hip.**
 7 A. Yes, sir.
 8 **Q. All right. And is it -- can -- was it**
 9 **concealed on that day?**
 10 A. No, sir.
 11 **Q. Okay. On that day, did you -- do you have to**
 12 **have a permit to carry a concealed weapon?**
 13 A. No. State of Missouri doesn't require that.
 14 **Q. And on February 22nd, 2019, what kind of**
 15 **weapon were you carrying?**
 16 A. It was a Springfield XD-S.
 17 **Q. Okay. And what is the capacity of that gun?**
 18 A. Seven plus one.
 19 **Q. And I know what that means, but could you**
 20 **just give an explanation what that means, seven plus**
 21 **one.**
 22 A. Yes, sir. It means it can hold seven in the
 23 magazine and one in the chamber.
 24 **Q. Okay. And is -- is the chamber in that gun**
 25 **in the handle? In the grip. I'm sorry.**

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1 A. What do you mean? The --
 2 **Q. Where are the bullets held within the gun?**
 3 A. In the magazine.
 4 **Q. And how is the magazine attached to the gun?**
 5 A. In the mag well. I'm not -- I'm not sure --
 6 **Q. All right. They have -- the magazines are**
 7 **attached to handguns in different ways. Right? Some**
 8 **go in the -- in the grip.**
 9 A. Yes, sir.
 10 **Q. Right? I was just trying to figure out how**
 11 **that magazine is situated --**
 12 A. Oh. Yeah.
 13 **Q. -- with that gun.**
 14 A. It's -- it's in the grip.
 15 **Q. Okay. Didn't mean to confuse you.**
 16 A. No. You're fine.
 17 **Q. Outside of the handgun that you had said you**
 18 **were carrying on your hip, where -- did you have any**
 19 **other handguns that you were carrying that day?**
 20 A. No, sir.
 21 **Q. Okay. In your work as a police officer, do**
 22 **you ever carry more than one handgun?**
 23 A. No, sir.
 24 **Q. And if an officer -- police officer does**
 25 **carry more than one handgun, can you just describe**

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1 **where the other locations on your body or on your**
 2 **person that you could carry or holster a handgun.**
 3 A. I mean, I guess you could put them pretty
 4 much anywhere. I mean, I -- I don't carry a secondary
 5 one, so I honestly don't know.
 6 **Q. Gotcha. Okay. And I mean, I've seen -- or**
 7 **you watch the movies, you see other, you know,**
 8 **officers with handguns with -- I've seen them like**
 9 **around people's ankles, or -- so is that what you mean**
 10 **like by the holster, you can put them wherever you**
 11 **want, or wherever they can attach to?**
 12 A. They sell multiple different kinds of
 13 holsters.
 14 **Q. Okay. Thanks for clearing that up for me.**
 15 **Okay. I've got these marked, but if you could initial**
 16 **them for me, that would be great. And hand it to**
 17 **opposing counsel.**
 18 MR. PHILLIPS: You want some help there?
 19 MR. SCHOTTEL: Yeah. If you could hand it
 20 to the court reporter for me.
 21 (EXHIBIT 1 MARKED FOR THE RECORD.)
 22 **Q. (BY MR. SCHOTTEL.) If you could just look**
 23 **through that from front to back. I just want to make**
 24 **sure you take a good look at that.**
 25 A. Okay. I do know what this is. Yeah.

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1 **Q. All right. And I just wanted you to identify**
 2 **those are your answers to the interrogatories that we**
 3 **had sent to you. Is that correct?**
 4 A. Yes, sir.
 5 **Q. Okay. And did that bear your signature on**
 6 **the back of the interrogatory answers?**
 7 A. Yes, sir.
 8 **Q. All right.**
 9 (EXHIBIT 2 MARKED FOR THE RECORD.)
 10 **Q. (BY MR. SCHOTTEL.) And just for the record,**
 11 **Exhibit 2's been marked. Can you identify what --**
 12 **what Exhibit 2 is.**
 13 A. It's the answers to affirmative defense of
 14 defendant Charles Roper.
 15 **Q. All right. And that was drafted by your**
 16 **attorney and filed in the case. That's just basically**
 17 **your answer to our complaint in the case. Is that**
 18 **fair to say?**
 19 A. Yes, sir.
 20 **Q. All right. Okay. Okay. And I'll be asking**
 21 **some questions about all these documents in a little**
 22 **bit. I just want to get them all marked and have you**
 23 **look through them so you can identify them. So -- I**
 24 **find it easier to do that instead of jumping around.**
 25 **Damon, grab -- pull a couple more pages. I do have**

4 (Pages 13 to 16)

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<p style="text-align: right;">Page 17</p> <p>1 them Bates marked. Man, there's a lot of pages in</p> <p>2 there.</p> <p>3 THE REPORTER: Sorry. I can't really hear</p> <p>4 you. Did you want to go off the record, or --</p> <p>5 MR. SCHOTTEL: We can go off the record for</p> <p>6 a second while we get this together.</p> <p>7 (OFF THE RECORD.)</p> <p>8 (EXHIBIT 3 MARKED FOR THE RECORD.)</p> <p>9 Q. (BY MR. SCHOTTEL.) And Exhibit 3 is the</p> <p>10 Carter -- Carter County Sheriff's Department</p> <p>11 investigation file with respect to the incident that's</p> <p>12 subject to this case. And I just wanted to ask you if</p> <p>13 you received a copy. I know your attorney's received</p> <p>14 a copy. If you received a copy as well. Have you</p> <p>15 seen all of it? Part of it? Some of it?</p> <p>16 A. I -- I went down and requested a copy.</p> <p>17 Mine's not that thick.</p> <p>18 Q. Okay.</p> <p>19 (EXHIBIT 4 MARKED FOR THE RECORD.)</p> <p>20 MS. KAYSER: Do you want me to take this</p> <p>21 one so she can start initialing it?</p> <p>22 MR. SCHOTTEL: Sure. Absolutely.</p> <p>23 (EXHIBIT 5 MARKED FOR THE RECORD.)</p> <p>24 Q. (BY MR. SCHOTTEL.) And I think I left off at</p> <p>25 Exhibit 4. Have you seen Exhibit 4 before? I'm sure</p>	<p style="text-align: right;">Page 19</p> <p>1 A. My father-in-law's. Sorry.</p> <p>2 Q. Okay. And when did you first see your</p> <p>3 father-in-law's dog?</p> <p>4 A. As I approached the intersection.</p> <p>5 Q. And what is your father-in-law's dog's name?</p> <p>6 A. Draco.</p> <p>7 Q. Can you spell that for me.</p> <p>8 A. I think he spells it D-R-A-C-O.</p> <p>9 Q. Okay. And how old is Draco now?</p> <p>10 A. Well, he's deceased now.</p> <p>11 Q. When did he pass away?</p> <p>12 A. Would have been May or June of this year.</p> <p>13 Q. Well, at the time he passed away, how old was</p> <p>14 he?</p> <p>15 A. Don't quote me on it, but I believe my</p> <p>16 father-in-law said he was like 16 years old. He was</p> <p>17 an old dog. That's the best to my ability I know.</p> <p>18 Q. And what kind of breed was Draco, if you</p> <p>19 know?</p> <p>20 A. He was a mixed breed, as best I know.</p> <p>21 Q. All right. So on the date of the incident,</p> <p>22 do you remember was it the -- when you first saw</p> <p>23 Draco, was it in the morning time? Afternoon?</p> <p>24 Evening?</p> <p>25 A. I think this would have been around noon,</p>
<p style="text-align: right;">Page 18</p> <p>1 you have.</p> <p>2 A. Yes. It's my --</p> <p>3 Q. And can you identify what that is.</p> <p>4 A. It's my employment application.</p> <p>5 Q. And who was that -- the employment</p> <p>6 application for?</p> <p>7 A. I believe this is for the Van Buren Police</p> <p>8 Department. Yeah.</p> <p>9 Q. Yeah. Okay. All right. And have you seen</p> <p>10 Exhibit 5 before?</p> <p>11 A. It's our city code book.</p> <p>12 Q. Okay. And particularly, did you look at</p> <p>13 the -- all the pages of Exhibit 5?</p> <p>14 A. I've looked over them. Yes. They pretty</p> <p>15 much pertain to dogs.</p> <p>16 Q. Okay. And is it fair to say they pertain to</p> <p>17 dogs and -- being leashed, and kind of violations? Is</p> <p>18 that fair to say?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. All right. On -- on the date of the</p> <p>21 incident, did you witness your father-in-law's dog in</p> <p>22 an altercation with another dog?</p> <p>23 A. I -- there was no altercation. His dog was</p> <p>24 laying on the ground.</p> <p>25 Q. Whose dog was laying --</p>	<p style="text-align: right;">Page 20</p> <p>1 because we were getting hungry for lunch. So it would</p> <p>2 have been somewhere around that time.</p> <p>3 Q. And you said -- were you driving at the time</p> <p>4 you saw Draco?</p> <p>5 A. Yes, sir.</p> <p>6 Q. What were you driving?</p> <p>7 A. My son's Ford Escape.</p> <p>8 Q. And why were you driving your son's car at</p> <p>9 the time?</p> <p>10 A. Because mine was broke.</p> <p>11 Q. And how old is your son?</p> <p>12 A. He's 20.</p> <p>13 Q. And was there anyone else in the vehicle with</p> <p>14 you when you were driving and saw Draco that day?</p> <p>15 A. My wife.</p> <p>16 Q. Was she in the passenger's seat?</p> <p>17 A. Yes, sir.</p> <p>18 Q. And I'm sorry. Could you describe again</p> <p>19 where Draco was on -- he was on the ground? Is that</p> <p>20 what you said?</p> <p>21 A. Yes, sir. It was on Independence Street,</p> <p>22 where Independence and Dale meet.</p> <p>23 Q. So was he in the middle of the street, or off</p> <p>24 to the side, or by the curb, or --</p> <p>25 A. Well, there's no curb. I mean --</p>

5 (Pages 17 to 20)

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1 Q. Oh.
 2 A. It would have -- yeah. It would have been
 3 middle. Yeah. It had to have been middle-ish area.
 4 Q. Okay.
 5 A. The road's not very wide.
 6 Q. And what did you do when you saw him on the
 7 ground?
 8 A. I stopped the vehicle, and stepped out and
 9 yelled at the dogs to get off of him.
 10 Q. What were the dogs -- you said dogs as
 11 plural. Was there more than one?
 12 A. Yes, sir.
 13 Q. How many dogs were there near Draco when you
 14 first saw them?
 15 A. Two.
 16 Q. And what were those dogs doing at the time
 17 you saw Draco?
 18 A. The smaller dog was biting at like I do
 19 believe his paws -- his front paws. And then the
 20 bigger one was behind him, and had him by the throat,
 21 neck, whichever way.
 22 Q. Did -- did you know either of these two dogs
 23 by name on that day?
 24 A. No, sir.
 25 Q. Can you describe what those two dogs looked

Page 22

1 like.
 2 A. White and brown.
 3 Q. Were both of them the same color, or --
 4 A. Honestly, I don't know.
 5 Q. Prior to the -- this day when you saw those
 6 two dogs near Draco, had you seen those two dogs
 7 before?
 8 A. Yes, sir.
 9 Q. And where had you seen those two dogs before?
 10 A. In my father-in-law's yard, attacking Draco.
 11 Q. And that's before this day?
 12 A. Yes, sir.
 13 Q. How many times would you say you saw that
 14 happen before that day?
 15 A. That I personally witnessed was one.
 16 Q. Do you know of any other person that
 17 witnessed that?
 18 A. My father-in-law.
 19 Q. And what is your father-in-law's name?
 20 A. Jeffrey Walberg.
 21 Q. At the time of this occurrence when you saw
 22 Draco, was Draco on a leash?
 23 A. No.
 24 Q. With respect to your father -- or I'm
 25 sorry -- what kind of residence did your father-in-law

Page 23

1 live in there?
 2 A. He had a house.
 3 Q. Did the house have a back yard?
 4 A. Yes, sir.
 5 Q. Was it fenced in?
 6 A. No, sir.
 7 Q. Did the house have a front yard?
 8 A. Yes.
 9 Q. Was that -- was the front yard fenced in?
 10 A. No, sir.
 11 Q. How often had you visited your father-in-law
 12 at his house there?
 13 A. I -- when I lived in Van Buren, we visited
 14 him almost every day.
 15 Q. And was that at the time of this incident?
 16 Around the time of this incident?
 17 A. No. I already had my house in Doniphan.
 18 Q. Okay. So since you had a house in Doniphan
 19 at this time, how often would you be able to go see
 20 your father-in-law?
 21 A. At least once a month. Very minimum, once a
 22 month.
 23 Q. Did your father-in-law keep Draco inside most
 24 of the time, or was he an outside dog, or was he both?
 25 A. He was an inside dog.

Page 24

1 Q. When you -- did you park your vehicle at some
 2 point? When you -- when you arrived and saw Draco,
 3 did you park your vehicle at some point?
 4 A. I stopped in the middle of the road.
 5 Q. Okay. Did you put your vehicle in park so it
 6 wouldn't roll?
 7 A. Yes, sir.
 8 Q. All right. What road was that when you
 9 parked your vehicle?
 10 A. Be Dale Street.
 11 Q. Okay. What street did your father-in-law
 12 live on?
 13 A. Dale Street.
 14 Q. Prior to the day of this incident, did you
 15 know the owner of the two dogs that were near Draco
 16 when you saw them?
 17 A. Yes.
 18 Q. And who were the owners?
 19 A. Jennifer and Robin Mesey.
 20 Q. And how did you know them?
 21 A. They were good friends with my wife.
 22 Q. Okay. What did you do after you parked your
 23 vehicle in the middle of Dale Street?
 24 A. I got out and yelled at the dogs to get away
 25 from him.

6 (Pages 21 to 24)

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<p>1 Q. Now, you're referring to the two dogs that</p> <p>2 were near Draco. Is that right?</p> <p>3 A. That were on him? Yes.</p> <p>4 Q. So at the time you got out, they were on top</p> <p>5 of your father-in-law's dog?</p> <p>6 A. Yes, sir.</p> <p>7 Q. At the time of this incident, did Draco have</p> <p>8 a collar on?</p> <p>9 A. I honestly don't know.</p> <p>10 Q. Okay. Did the other two dogs have a collar</p> <p>11 on?</p> <p>12 A. I didn't pay attention.</p> <p>13 Q. Okay. I'm assuming you got out of your truck</p> <p>14 first before you started yelling at the dogs.</p> <p>15 A. Yes, sir.</p> <p>16 Q. That was a statement by me, so that was bad.</p> <p>17 So would you agree with the statement that I made that</p> <p>18 you got out of the truck before you started yelling at</p> <p>19 the dogs?</p> <p>20 A. Yes, sir.</p> <p>21 Q. What did your wife, Donna, do at that time?</p> <p>22 A. I -- I'm not 100-percent sure, because she</p> <p>23 was behind me.</p> <p>24 Q. And how did she get behind you?</p> <p>25 A. She was in the vehicle.</p>	<p>1 parked, and you went -- did you go closer to the side</p> <p>2 of the street, or did the street have grassy areas in</p> <p>3 it?</p> <p>4 A. The -- the road they were on runs east and</p> <p>5 west. Back behind them was a grassy yard. Or</p> <p>6 correction. The road -- Independence runs north and</p> <p>7 south. Dale runs east and west.</p> <p>8 Q. When you fired the shot into the ground,</p> <p>9 where was your wife, Donna?</p> <p>10 A. Still would have been behind me. Because I</p> <p>11 didn't see her.</p> <p>12 Q. How close to the dogs were you when you fired</p> <p>13 the warning shot?</p> <p>14 A. I would say three to five feet, give or take.</p> <p>15 Q. Were they directly in front of you?</p> <p>16 A. They might have been off to the left a little</p> <p>17 bit.</p> <p>18 Q. Were the two dogs and your father-in-law's</p> <p>19 dog -- were they on a grassy area, or in the street?</p> <p>20 A. They were on the blacktop.</p> <p>21 Q. And what happened after you fired the warning</p> <p>22 shot?</p> <p>23 A. My gun jammed and I had to clear it.</p> <p>24 Q. Can you describe what you mean by your gun</p> <p>25 jammed.</p>
Page 26	Page 28
<p>1 Q. So how did she exit your vehicle?</p> <p>2 A. Through the door.</p> <p>3 Q. Through the same door that you got out of?</p> <p>4 A. I don't know. I very seriously doubt it, but</p> <p>5 I don't know.</p> <p>6 Q. Okay. Well, I'm just -- I'm just trying to</p> <p>7 figure out how she was in the passenger's seat and</p> <p>8 then wound up behind you. If you know.</p> <p>9 A. Because I was standing in front of the</p> <p>10 vehicle.</p> <p>11 Q. Oh, okay. Were you standing directly in</p> <p>12 front of the middle of the vehicle, or were you to</p> <p>13 either side of the vehicle?</p> <p>14 A. I would have been on the driver's side of the</p> <p>15 vehicle.</p> <p>16 Q. What happened after you yelled at the dogs?</p> <p>17 A. Neither dog let go of him. I fired one</p> <p>18 warning shot into the ground.</p> <p>19 Q. And are you referring to the gun that you had</p> <p>20 on your hip?</p> <p>21 A. Yes, sir.</p> <p>22 Q. What type of surface was the ground that you</p> <p>23 fired the shot into?</p> <p>24 A. Grass and dirt.</p> <p>25 Q. So the vehicle that you were driving was</p>	<p>1 A. The empty casing didn't eject, and a -- a</p> <p>2 loaded cartridge was trying to go in at the same time.</p> <p>3 Q. Had you had that happen to you with that gun</p> <p>4 before?</p> <p>5 A. No, sir.</p> <p>6 Q. So after you fired the warning shot, the gun</p> <p>7 jammed?</p> <p>8 A. Yes, sir.</p> <p>9 Q. And if the gun was jammed, you would not have</p> <p>10 been able to fire another shot. Is that true?</p> <p>11 A. Not until you clear the jam.</p> <p>12 Q. Okay. Did you clear the jam?</p> <p>13 A. Yes, sir.</p> <p>14 Q. How did you clear the jam?</p> <p>15 A. I dropped the magazine, and racked the slide,</p> <p>16 cleared it.</p> <p>17 Q. After that, did you put the magazine back in</p> <p>18 the gun?</p> <p>19 A. Yes, sir.</p> <p>20 Q. When you put the magazine in the gun, does a</p> <p>21 round automatically go in the chamber?</p> <p>22 A. In that gun, it does.</p> <p>23 Q. And what did you do after you put the</p> <p>24 magazine back in the gun?</p> <p>25 A. That's when my wife walked around me.</p>

7 (Pages 25 to 28)

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<p style="text-align: right;">Page 29</p> <p>1 Q. On which side of you did she walk around you?</p> <p>2 A. On my right side.</p> <p>3 Q. And where were you standing at this point</p> <p>4 with respect to your truck?</p> <p>5 A. I would have been in front of it still,</p> <p>6 towards the driver's side.</p> <p>7 Q. Okay. After you firing a warning shot and</p> <p>8 yelling at the dogs, were the dogs -- the two dogs</p> <p>9 that were near your father-in-law's dog, were they</p> <p>10 ignoring you?</p> <p>11 A. The smaller one ran off, went on up</p> <p>12 Independence Street up the hill.</p> <p>13 Q. Do you know if you struck that dog with a</p> <p>14 bullet or not?</p> <p>15 A. I honestly don't believe so, because I seen</p> <p>16 the grass fly.</p> <p>17 Q. What happened after that other dog ran off?</p> <p>18 A. My wife walked around me, said that she was</p> <p>19 going to break it up. And that's when the bigger dog</p> <p>20 let go of Draco, and was coming after her. And then</p> <p>21 that's when I fired the shot and stopped him from</p> <p>22 attacking my wife.</p> <p>23 Q. Can you describe how the other dog was</p> <p>24 attacking your wife.</p> <p>25 A. It didn't attack her. It was coming after</p>	<p style="text-align: right;">Page 31</p> <p>1 A. He was --</p> <p>2 MS. KAYSER: Objection.</p> <p>3 MR. PHILLIPS: He was -- oh, sorry.</p> <p>4 MS. KAYSER: Asked and answered. You can</p> <p>5 answer it one more time.</p> <p>6 THE WITNESS: It was physically coming</p> <p>7 toward her.</p> <p>8 Q. (BY MR. SCHOTTEL.) Walking towards her?</p> <p>9 A. I -- it didn't take but two steps.</p> <p>10 Q. Can you describe what that means, it didn't</p> <p>11 take but two steps.</p> <p>12 A. I don't know if you can classify it as a</p> <p>13 walk, a jog, a run. It didn't -- we were -- we were</p> <p>14 within three feet. Reactionary gap is 21 feet. We</p> <p>15 were way inside that. So it didn't take a bunch of</p> <p>16 steps before I protected my wife.</p> <p>17 Q. And I think you testified you thought the dog</p> <p>18 was going to attack your wife.</p> <p>19 A. I knew the dog was coming after my wife.</p> <p>20 Q. How did you know that?</p> <p>21 A. Because it was looking straight at her.</p> <p>22 Q. Okay. Have you ever seen -- prior to this</p> <p>23 date, have you ever seen a dog attack a human before?</p> <p>24 A. Yes.</p> <p>25 Q. Where?</p>
<p style="text-align: right;">Page 30</p> <p>1 her to try and attack her, teeth showing, barking,</p> <p>2 acting aggressive. I mean, I don't know how to</p> <p>3 explain it.</p> <p>4 Q. So you mentioned its teeth were showing.</p> <p>5 A. Yes, sir.</p> <p>6 Q. How close were you to the dog when you saw</p> <p>7 the teeth showing?</p> <p>8 A. We were still within that three to five-feet</p> <p>9 range.</p> <p>10 Q. And what else did you observe about that dog?</p> <p>11 A. What -- I don't know. My family's always</p> <p>12 called it hackles. The hair on the back of their neck</p> <p>13 and on their tail was raised. His tail was stiff. He</p> <p>14 was in attack mode.</p> <p>15 Q. How do you know that the dog was in attack</p> <p>16 mode?</p> <p>17 MS. KAYSER: Asked and answered. He's</p> <p>18 already described it.</p> <p>19 Q. (BY MR. SCHOTTEL.) Subject to that, you can</p> <p>20 answer the question.</p> <p>21 A. Okay. Because his teeth were showing, and</p> <p>22 his hackles were raised, and he was coming after my</p> <p>23 wife.</p> <p>24 Q. And can you describe what you mean coming</p> <p>25 after your wife.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. That dog attacked my father-in-law.</p> <p>2 Q. And can you describe that dog attacking your</p> <p>3 father-in-law.</p> <p>4 A. It come running at him, and Draco stepped in</p> <p>5 the way, and the dogs got to fighting, he fell to the</p> <p>6 ground. I believe it was Robbie was the one that come</p> <p>7 down there and drug the dog off.</p> <p>8 Q. But the dog ended up going after Draco?</p> <p>9 A. I think Draco went after him to prevent -- to</p> <p>10 save its owner.</p> <p>11 Q. Well, if you had seen that dog allegedly</p> <p>12 attack your father-in-law, why would you go out and</p> <p>13 get very close to that dog?</p> <p>14 A. Because I care for animals. I don't want you</p> <p>15 sitting here thinking that I'm just some kind of</p> <p>16 heartless person. I'm not.</p> <p>17 Q. Before you even exited your vehicle, had you</p> <p>18 intended to shoot the dog?</p> <p>19 A. Absolutely not.</p> <p>20 Q. Then what was your intention when you got out</p> <p>21 of your vehicle with respect to those two dogs --</p> <p>22 A. To --</p> <p>23 Q. -- and Draco?</p> <p>24 A. Oh, sorry. To get -- get them to stop, and</p> <p>25 to make sure Draco was still alive.</p>

8 (Pages 29 to 32)

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<p>1 Q. But you've testified that you've seen -- that</p> <p>2 you've allegedly seen that dog be aggressive toward a</p> <p>3 human before.</p> <p>4 A. Yes, sir.</p> <p>5 Q. Did you have anything else outside of your</p> <p>6 weapon to protect you from the dog?</p> <p>7 A. No, sir.</p> <p>8 Q. Outside of yelling at the dogs, did you have</p> <p>9 any other plan to separate the dogs?</p> <p>10 A. Not at the moment. No.</p> <p>11 Q. From the time you got out of your vehicle,</p> <p>12 how long did it take you to draw your weapon?</p> <p>13 A. I -- I took a few steps. So maybe a minute.</p> <p>14 Two minutes. Somewhere in there.</p> <p>15 Q. At the time you -- or I'm sorry. After you</p> <p>16 fired the warning shot, you fired a shot at -- at the</p> <p>17 other dog. Correct? Because one -- one dog ran off,</p> <p>18 so you did fire a shot at the second dog.</p> <p>19 A. One more time. Sorry. I didn't understand</p> <p>20 what you were meaning.</p> <p>21 Q. Well, I believe you testified -- and correct</p> <p>22 me if I'm wrong -- when you fired the warning shot,</p> <p>23 one of the two dogs ran off. Is that correct?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Okay. So there was one other dog that you</p>	<p>1 Q. Why not?</p> <p>2 A. Okay. I didn't because they were killing my</p> <p>3 father-in-law's dog. Or I -- I'm not 100-percent sure</p> <p>4 at that time if it was dead or if he was still alive.</p> <p>5 So --</p> <p>6 Q. Well, apparently he was alive. Right?</p> <p>7 A. Yes.</p> <p>8 Q. Would it have been a reasonable thing to try</p> <p>9 to contact the Meseys because they're their dogs, and</p> <p>10 they would have a better chance to remove them from</p> <p>11 the situation?</p> <p>12 A. In a general sense, or on that day?</p> <p>13 Q. On that day.</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. Like I said, I wasn't sure if the dog was</p> <p>17 already dead or not.</p> <p>18 Q. Why weren't you sure if the dog was dead or</p> <p>19 not?</p> <p>20 A. There was two dogs attacking him. He's</p> <p>21 laying on the ground.</p> <p>22 Q. Did you see any blood?</p> <p>23 A. Yeah. There was -- there was blood.</p> <p>24 Q. Where was the blood?</p> <p>25 A. It was coming from his ear and his neck.</p>
Page 34	Page 36
<p>1 knew to be the Meseys'. Correct?</p> <p>2 A. Yes.</p> <p>3 Q. And your wife was friends with the Meseys.</p> <p>4 Is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. And on that day, is it fair to say that she</p> <p>7 knew where they were living?</p> <p>8 A. Yes. We were standing in front of their</p> <p>9 house.</p> <p>10 Q. Did you go to their house and ask them for</p> <p>11 help to get their dogs away from Draco?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. We yelled at them. Nobody answered. There</p> <p>15 was no vehicles there. I wasn't even sure if they</p> <p>16 were there.</p> <p>17 Q. Were they there?</p> <p>18 A. Yes.</p> <p>19 Q. Did you knock on the door or bang on the</p> <p>20 door?</p> <p>21 A. No. When I walked up there, they came</p> <p>22 outside.</p> <p>23 Q. Well, prior to you confronting the dogs, did</p> <p>24 you walk up to their door and bang on their door?</p> <p>25 A. No.</p>	<p>1 Q. Are there any pictures of the blood?</p> <p>2 A. No, sir. Not unless the sheriff's department</p> <p>3 has pictures. I don't know.</p> <p>4 Q. I didn't see any.</p> <p>5 A. Okay.</p> <p>6 Q. I don't know. Did you?</p> <p>7 A. I -- I don't remember seeing any. But I'm</p> <p>8 not going to say that they didn't get some.</p> <p>9 Q. All right. Did you take any?</p> <p>10 A. No, sir.</p> <p>11 Q. Why not?</p> <p>12 A. Because I was taken down to the sheriff's</p> <p>13 office.</p> <p>14 Q. In general, where do you carry your police</p> <p>15 badge?</p> <p>16 A. It stays on my vest.</p> <p>17 Q. And you didn't have your vest on that day.</p> <p>18 Correct?</p> <p>19 A. I didn't even have a vest yet. No.</p> <p>20 Q. Okay. Did you know the Meseys' dogs by name?</p> <p>21 A. No, sir.</p> <p>22 Q. So you didn't know that the bigger dog's name</p> <p>23 was Max?</p> <p>24 A. Not until I read the report. No.</p> <p>25 Q. Okay. And you didn't know the smaller dog's</p>

9 (Pages 33 to 36)

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<p>1 name was Nina?</p> <p>2 A. I didn't even know that one was theirs.</p> <p>3 Q. How many total shots did you fire that day?</p> <p>4 A. Two.</p> <p>5 Q. Do you have any knowledge of whether or not</p> <p>6 both Max and Nina were shot by a bullet?</p> <p>7 A. Okay. So which one's Max and which</p> <p>8 one's Nina? Max was the bigger one. Correct?</p> <p>9 Q. Correct.</p> <p>10 A. I know he was shot by a bullet.</p> <p>11 Q. Did you know Nina was shot by a bullet?</p> <p>12 A. They -- they had said something about that</p> <p>13 whenever they sent text messages to my wife. Yeah.</p> <p>14 Q. Do you think you were the one that shot Nina</p> <p>15 by the bullet?</p> <p>16 A. No, sir.</p> <p>17 Q. Was there anyone else at that location when</p> <p>18 this occurrence happened that had a gun?</p> <p>19 A. I -- there's no way I could know that.</p> <p>20 Q. That you saw. That you observed.</p> <p>21 A. Not that I seen. No.</p> <p>22 Q. If you could take a look at Exhibit 2. On</p> <p>23 the third page, I believe, the -- Paragraph 17 at the</p> <p>24 top.</p> <p>25 A. Okay.</p>	<p>1 A. Yes, sir.</p> <p>2 Q. All right. Can you look at Page 83.</p> <p>3 MS. KAYSER: I think they're marked --</p> <p>4 Q. (BY MR. SCHOTTEL.) They're marked in the</p> <p>5 upper right --</p> <p>6 A. Oh, top corner.</p> <p>7 Q. -- corner to make things easier. I may have</p> <p>8 the page number wrong, but I think I'm close.</p> <p>9 A. 83 was my wife's.</p> <p>10 Q. All right.</p> <p>11 A. Mine's 84.</p> <p>12 Q. 84. Could you take a moment and read through</p> <p>13 your statement.</p> <p>14 A. Okay.</p> <p>15 Q. Could I take a look at it.</p> <p>16 A. Yes, sir.</p> <p>17 Q. I only got one copy, because my copier went</p> <p>18 on the fritz. In your statement -- and the date of</p> <p>19 this is 2/22/19 -- would that have been the date of</p> <p>20 the incident, or --</p> <p>21 A. Yes, sir.</p> <p>22 Q. Yes. Okay. So did you give this statement</p> <p>23 shortly after the incident occurred?</p> <p>24 A. Yes, sir.</p> <p>25 Q. Do you think your memory is better right</p>
Page 38	Page 40
<p>1 Q. And do you see it says and that one of</p> <p>2 plaintiff's dogs turned aggressively toward answering</p> <p>3 defendant's wife. That means Donna.</p> <p>4 A. Yes, sir.</p> <p>5 Q. Okay. And do you know what turned</p> <p>6 aggressively -- or could you describe or explain that</p> <p>7 any further.</p> <p>8 A. Not any further than I already have. I</p> <p>9 mean -- no.</p> <p>10 Q. And this was part of an answer filed with the</p> <p>11 court on August 23rd, 2019. Does that sound right?</p> <p>12 A. Oh. Yes, sir.</p> <p>13 Q. All right. Did you give a -- or I'm sorry.</p> <p>14 Were you interrogated or questioned by the Crawford</p> <p>15 County Sheriff's Department when they were doing their</p> <p>16 investigation?</p> <p>17 A. No.</p> <p>18 MS. KAYSER: Carter County.</p> <p>19 MR. SCHOTTEL: Oh, I'm sorry. Did I say --</p> <p>20 THE WITNESS: Yeah. You said Crawford.</p> <p>21 That's what threw me off.</p> <p>22 Q. (BY MR. SCHOTTEL.) Crawford. I'm sorry.</p> <p>23 It's been a long day. Exhibit 3. Let's just go to</p> <p>24 that. In that investigation, did you give any kind of</p> <p>25 written statement about what occurred?</p>	<p>1 after something happens, or several months after</p> <p>2 something happens?</p> <p>3 MS. KAYSER: Objection. Calls for</p> <p>4 speculation. To the extent you can answer.</p> <p>5 THE WITNESS: I -- I'm not a doctor. I</p> <p>6 have no clue for the answer to that one.</p> <p>7 Q. (BY MR. SCHOTTEL.) No. I'm not asking you</p> <p>8 to be a doctor. I'm asking your own opinion about</p> <p>9 your own memory, how you remember things. So would</p> <p>10 you remember something better right after it happens,</p> <p>11 or after several months has -- have passed?</p> <p>12 A. It would have to be closer to the incident</p> <p>13 happening.</p> <p>14 Q. Okay. So your testimony is your memory is</p> <p>15 closer to when an incident happens?</p> <p>16 A. Yes, sir.</p> <p>17 Q. In this statement, did you use the word</p> <p>18 aggressive or aggressively anywhere?</p> <p>19 A. I don't believe so.</p> <p>20 Q. You don't believe so?</p> <p>21 A. I don't think I did.</p> <p>22 Q. You can double-check.</p> <p>23 A. I was going to say, I don't remember. I</p> <p>24 don't see the word aggressive in there.</p> <p>25 Q. Not to you or towards your wife.</p>

10 (Pages 37 to 40)

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<p>1 A. I don't see the word aggressive in my</p> <p>2 statement at all.</p> <p>3 Q. All right. But in subsequent statements, you</p> <p>4 used the word aggressively.</p> <p>5 A. Okay.</p> <p>6 Q. Why would you say that the dogs were</p> <p>7 aggressive at a later date, and not right after the</p> <p>8 incident occurred?</p> <p>9 A. This is a statement. This is not a story of</p> <p>10 the whole event.</p> <p>11 Q. You gave a statement that talks about the</p> <p>12 dog.</p> <p>13 A. Right.</p> <p>14 Q. Walking towards your wife in that statement.</p> <p>15 A. Okay.</p> <p>16 Q. Okay. And you didn't say aggressively.</p> <p>17 A. Okay.</p> <p>18 Q. And my question was why would you use the</p> <p>19 word aggressively many months after the incident, and</p> <p>20 not right after the incident happened?</p> <p>21 A. Because --</p> <p>22 MS. KAYSER: To the extent that -- he can</p> <p>23 use whatever words he wants. This is a crazy, vague</p> <p>24 and ambiguous question.</p> <p>25 MR. SCHOTTEL: No. It's pretty</p>	<p>1 with the court, it states and that one of plaintiff's</p> <p>2 dogs turned aggressively toward answering defendant's</p> <p>3 wife. So you didn't say in your statement that the</p> <p>4 dog aggressively turned toward your wife.</p> <p>5 MS. KAYSER: And I object to the form.</p> <p>6 Whatever words are used, they say exactly the same</p> <p>7 thing.</p> <p>8 THE WITNESS: You need me to read it again?</p> <p>9 Q. (BY MR. SCHOTTEL.) No. I'm just asking you.</p> <p>10 You did not put in your statement that the dog turned</p> <p>11 aggressively towards your wife.</p> <p>12 A. No. It's not wrote like that in there.</p> <p>13 Q. Okay. And can I get the -- the previous page</p> <p>14 that your -- your wife's statement. And for the</p> <p>15 record, this is Page 83 of Exhibit 3. Did your wife</p> <p>16 state in her statement that the dog aggressively</p> <p>17 turned and came at her?</p> <p>18 MS. KAYSER: Objection. Do you just want</p> <p>19 him to read the statement into the record?</p> <p>20 MR. SCHOTTEL: No. I'm just asking the</p> <p>21 question.</p> <p>22 MS. KAYSER: He didn't write it.</p> <p>23 MR. SCHOTTEL: I know.</p> <p>24 THE WITNESS: I haven't read her statement.</p> <p>25 Q. (BY MR. SCHOTTEL.) Well, we've got a second</p>
Page 42	Page 44
<p>1 straight-forward.</p> <p>2 MS. KAYSER: If you have an answer,</p> <p>3 Charles, feel free to --</p> <p>4 MR. PHILLIPS: I'm going to join in that.</p> <p>5 I'd also object that it mischaracterizes his previous</p> <p>6 testimony. He didn't say that he never described the</p> <p>7 dog as being aggressive closer in time to the</p> <p>8 incident. If you're asking him specifically about</p> <p>9 that statement, that's one thing. If you're asking</p> <p>10 him about what he told people at or near the scene,</p> <p>11 that's a different thing. Subject to that, you can</p> <p>12 answer to the best of your ability.</p> <p>13 THE WITNESS: I -- I don't know what you</p> <p>14 want from me. I really don't.</p> <p>15 Q. (BY MR. SCHOTTEL.) All right. In your</p> <p>16 statement that you gave on the 22nd, on the date of</p> <p>17 the incident, can you read what you stated about the</p> <p>18 dog walking towards your wife.</p> <p>19 A. As she approached the dog, the dog released</p> <p>20 the dog and came at her.</p> <p>21 Q. Okay. Okay. Can I see this.</p> <p>22 A. Yes, sir.</p> <p>23 Q. All right. There you go. And you accurately</p> <p>24 stated your sentence that it came at her. And when I</p> <p>25 asked you before on August 23rd in a document filed</p>	<p>1 to read it.</p> <p>2 MS. KAYSER: Why don't you read it out loud</p> <p>3 so it's on the record.</p> <p>4 THE WITNESS: Okay. Was leaving my</p> <p>5 father's house -- Jeffrey Walberg -- when we seen</p> <p>6 three dogs in the road fighting. I pointed out to my</p> <p>7 husband -- Charles Roper -- that the dog lying on the</p> <p>8 ground was my father's. We stepped out of the vehicle</p> <p>9 to try and break them apart. My husband fired a</p> <p>10 warning shot at the ground, and one dog left. The</p> <p>11 other dog didn't move, so I went to them to try and</p> <p>12 break them up. The dog came towards me and my husband</p> <p>13 shot the other dog.</p> <p>14 Q. Did your wife use the word aggressively?</p> <p>15 A. I don't see it.</p> <p>16 Q. You didn't see it. So is that a no?</p> <p>17 A. Not from what I read on there. No.</p> <p>18 Q. If you could look at Plaintiff's Exhibit 1,</p> <p>19 please. And I'll be more specific in a second. Page</p> <p>20 10. And looking at Interrogatory Number 20. And it</p> <p>21 states please state whether or not the Van Buren</p> <p>22 Police Department had policies or procedures in place</p> <p>23 for officers to follow while being considered off</p> <p>24 duty. Question: If your answer is in the</p> <p>25 affirmative, please describe those policies and</p>

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<p style="text-align: right;">Page 45</p> <p>1 procedures. Could you just read your answer to that</p> <p>2 question.</p> <p>3 A. There were no formal policy or procedures in</p> <p>4 place at the time of the incident.</p> <p>5 Q. And I noticed you said there were no formal</p> <p>6 policy or procedures. Were there informal policy and</p> <p>7 procedures?</p> <p>8 A. I'd only been there for three days. I don't</p> <p>9 know.</p> <p>10 Q. I was just curious why you stated there were</p> <p>11 no formal, instead of -- why you clarified formal.</p> <p>12 That's all I was asking.</p> <p>13 A. Oh, I have --</p> <p>14 Q. Not trying to trick you.</p> <p>15 A. No. You're -- you're fine.</p> <p>16 Q. Okay. And you said you were familiar with</p> <p>17 Exhibit 5, the leash laws. Is that correct?</p> <p>18 A. I've seen them since they've been printed</p> <p>19 out. Yeah.</p> <p>20 Q. When the bigger dog that you know you shot --</p> <p>21 or admitted you shot -- when you shot the bigger dog,</p> <p>22 the bigger dog did not have a leash on. Is that</p> <p>23 correct?</p> <p>24 A. No, sir.</p> <p>25 Q. When you shot the bigger dog without the</p>	<p style="text-align: right;">Page 47</p> <p>1 that oath of office?</p> <p>2 A. 1/30/2019.</p> <p>3 Q. And whose signature is below there?</p> <p>4 A. Below mine, or --</p> <p>5 Q. Yes. Below yours.</p> <p>6 A. That's the city clerk. I think her name was</p> <p>7 Jeri Platt.</p> <p>8 Q. Okay. And that was just like a notary seal.</p> <p>9 Is that correct?</p> <p>10 A. Yes, sir.</p> <p>11 Q. All right. Before you shot the bigger dog,</p> <p>12 did your wife, Donna, make any comments to you like</p> <p>13 shoot the dog?</p> <p>14 A. No.</p> <p>15 Q. No? Okay. Could you describe your wife's</p> <p>16 reaction after you shot the dog as it was -- it was</p> <p>17 near her?</p> <p>18 A. Like she walked over there to try and see if</p> <p>19 she could check on Draco, and then she got in the</p> <p>20 truck and went back down to my father-in-law's.</p> <p>21 Q. How close was your wife to the dog when</p> <p>22 you -- to the bigger dog when you shot it?</p> <p>23 A. I pulled her back behind me. So if I was</p> <p>24 three to four foot, she was probably, you know, four</p> <p>25 to five.</p>
<p style="text-align: right;">Page 46</p> <p>1 leash, were you enforcing the leash laws that were in</p> <p>2 place?</p> <p>3 A. No, sir.</p> <p>4 Q. Then what was your ultimate purpose in firing</p> <p>5 your weapon at the bigger dog?</p> <p>6 MS. KAYSER: Objection. Asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: To protect my wife.</p> <p>9 Q. (BY MR. SCHOTTEL.) Give me a couple minutes</p> <p>10 to look through and we should be finished. I missed</p> <p>11 something. Could you take a look at Plaintiff's</p> <p>12 Exhibit 4. Just take a look at it. It's your</p> <p>13 application for employment with City of Van Buren.</p> <p>14 Right? And could you look at the last page entitled</p> <p>15 the oath of office. And could you read that for me</p> <p>16 into the record.</p> <p>17 A. Okay. It says I, Charles Roper, do solemnly</p> <p>18 swear that I possess the qualifications for the</p> <p>19 position of police officer as prescribed by law; that</p> <p>20 I will support the Constitution of the United States,</p> <p>21 and of the State of Missouri, the provisions of all</p> <p>22 laws of the state affecting cities of this class, and</p> <p>23 the ordinances of the City of Van Buren, Missouri; and</p> <p>24 faithfully demean myself in office, so help me God.</p> <p>25 Q. And what was the date that you had signed</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. So you pulled her -- you pulled your wife</p> <p>2 behind you before shooting the dog?</p> <p>3 A. Yes.</p> <p>4 Q. What did the dog do when you pulled your wife</p> <p>5 behind you?</p> <p>6 A. Nothing different.</p> <p>7 Q. Did it stand in front of you?</p> <p>8 A. It was still coming her direction. This was</p> <p>9 a very quick time this happened.</p> <p>10 Q. But if you pulled your wife behind you, then</p> <p>11 you were in between the dog and --</p> <p>12 A. And her.</p> <p>13 Q. -- your wife.</p> <p>14 A. Yes.</p> <p>15 Q. Right. So that's what I was asking.</p> <p>16 A. Okay.</p> <p>17 Q. What did the dog do when you pulled your wife</p> <p>18 directly behind you?</p> <p>19 A. Well, I don't think it was directly behind</p> <p>20 me, but behind me. But it didn't do anything</p> <p>21 different. It was still approaching us. You know.</p> <p>22 Q. So it was approaching you as well.</p> <p>23 A. Well, whenever I put her behind me, I guess</p> <p>24 yeah, it would have been approaching me.</p> <p>25 Q. Was the dog barking at the time?</p>

12 (Pages 45 to 48)

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EXHIBIT A

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<p>1 A. Yes.</p> <p>2 Q. So at the time you shot the bigger dog, your</p> <p>3 wife was behind you?</p> <p>4 A. Yes.</p> <p>5 Q. Where on the dog did you hit it?</p> <p>6 A. I aimed for the head. I don't know exactly</p> <p>7 where I hit it.</p> <p>8 Q. Pretty good shot. When officers describe</p> <p>9 different things in dealing with citizens and things,</p> <p>10 what is -- or -- are matters or circumstances</p> <p>11 sometimes referred to as threats?</p> <p>12 MS. KAYSER: Objection. Vague. If you can</p> <p>13 answer that question, go ahead.</p> <p>14 Q. (BY MR. SCHOTTEL.) So if you have a gun</p> <p>15 that -- someone with a gun who is positioned in a</p> <p>16 house, would that person sometimes be referred to as a</p> <p>17 threat?</p> <p>18 MS. KAYSER: Objection. Vague. Calls for</p> <p>19 speculation.</p> <p>20 THE WITNESS: I guess it could be. I've</p> <p>21 never been in that situation, so I don't know.</p> <p>22 Q. (BY MR. SCHOTTEL.) Okay. By putting your</p> <p>23 wife behind you, had you not protected her from the</p> <p>24 dog?</p> <p>25 A. Maybe. I mean, can't guarantee anything.</p>	<p>1 A. Yeah. Seven.</p> <p>2 Q. Seven. And then there was one in the</p> <p>3 chamber, so it would have been eight?</p> <p>4 A. Yes, sir.</p> <p>5 Q. All right. Could you hand me Exhibit 3 real</p> <p>6 quick. This'll be my final question, I think. All</p> <p>7 right. Damon, you want to give me a quick hand and</p> <p>8 make this go faster. Just help me flip a couple pages</p> <p>9 over.</p> <p>10 MR. PHILLIPS: Sure. Just tell me when.</p> <p>11 MR. SCHOTTEL: Yeah. Just a couple more</p> <p>12 pages. Okay. I think that might be --</p> <p>13 MS. KAYSER: Don't start that yawning.</p> <p>14 THE WITNESS: I'm always tired. I work a</p> <p>15 lot.</p> <p>16 Q. (BY MR. SCHOTTEL.) Before I ask this final</p> <p>17 question -- when your gun jammed, and you unjammed --</p> <p>18 you unjammed it. Correct?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And how did you do that again, briefly?</p> <p>21 A. I dropped the magazine and racked the</p> <p>22 chamber.</p> <p>23 Q. Okay. So what would have happened to that</p> <p>24 bullet that was jammed?</p> <p>25 A. It probably -- it should have fell out.</p>
Page 50	Page 52
<p>1 The dog didn't stop coming at us, so I felt not.</p> <p>2 Q. Can you describe what the dog looked like</p> <p>3 just before you pulled the trigger and shot it.</p> <p>4 MS. KAYSER: Objection. Asked and</p> <p>5 answered.</p> <p>6 THE WITNESS: It's a brown and white dog.</p> <p>7 Q. (BY MR. SCHOTTEL.) Any -- any distinctive</p> <p>8 features that made you alarmed about the dog that it</p> <p>9 was going to hurt you?</p> <p>10 A. Yeah. It was growling, it was barking,</p> <p>11 showing its teeth, hackles were raised, tail was</p> <p>12 stiff.</p> <p>13 Q. What happened to the dog after you shot it?</p> <p>14 A. It fell to the ground and didn't move.</p> <p>15 Q. So how many shots during that occasion did</p> <p>16 you shoot from your weapon.</p> <p>17 MS. KAYSER: Objection. Asked and</p> <p>18 answered. You can answer it one more time.</p> <p>19 THE WITNESS: Two.</p> <p>20 Q. (BY MR. SCHOTTEL.) Okay. And just so I'm</p> <p>21 clear about that gun -- and I'm not trying to ask an</p> <p>22 asked and answered question -- but that gun had how</p> <p>23 many in the magazine?</p> <p>24 A. Seven.</p> <p>25 Q. The gun that you had on that day.</p>	<p>1 That's usually how you clear a jam, is they fall out</p> <p>2 on the ground.</p> <p>3 Q. Okay. Do you remember whether it did fall on</p> <p>4 the ground?</p> <p>5 A. I believe so. I believe there's a picture of</p> <p>6 it laying on the ground, too.</p> <p>7 Q. Okay. This is Bates Number 3 in Exhibit 3.</p> <p>8 It says that there were a quantity of five live rounds</p> <p>9 returned to owner. Returned to you. Does that sound</p> <p>10 right?</p> <p>11 A. I -- I believe so. Because I even asked them</p> <p>12 why I didn't get my other rounds back. But yeah.</p> <p>13 I've got that same property receipt at home.</p> <p>14 Q. Would that be consistent with firing two</p> <p>15 rounds?</p> <p>16 A. Not according to that paper. No.</p> <p>17 Q. Okay. So that would be inconsistent with</p> <p>18 your testimony of firing two rounds.</p> <p>19 MS. KAYSER: Objection as to form. It's</p> <p>20 consistent with what's on the form that you gave him.</p> <p>21 But he already testified that he didn't get everything</p> <p>22 back.</p> <p>23 MR. SCHOTTEL: No. I'm just saying with</p> <p>24 the form. I'm not going into his testimony.</p> <p>25 THE WITNESS: Yeah. You'll have to ask the</p>


13 (Pages 49 to 52)

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<p>1 deputy.</p> <p>2 Q. (BY MR. SCHOTTEL.) The form -- the form is</p> <p>3 not consistent with your testimony of firing two</p> <p>4 rounds.</p> <p>5 A. No.</p> <p>6 MR. SCHOTTEL: Okay. All right. I think</p> <p>7 that's all the questions I have.</p> <p>8 MR. PHILLIPS: Mind if I power through</p> <p>9 about two minutes worth of questions before we get</p> <p>10 kicked out of here?</p> <p>11 THE WITNESS: You're fine.</p> <p>12 CROSS-EXAMINATION</p> <p>13 QUESTIONS BY MR. PHILLIPS:</p> <p>14 Q. Okay. So you were driving your son's Ford</p> <p>15 Escape. Right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. Was that a police vehicle?</p> <p>18 A. No, sir.</p> <p>19 Q. Were you in uniform?</p> <p>20 A. No, sir.</p> <p>21 Q. The weapon that you used to defend your wife,</p> <p>22 was that a gun that was given to you by the police</p> <p>23 department?</p> <p>24 A. No, sir.</p> <p>25 Q. Was that your personal weapon?</p>	<p>1 A. Okay. If I was already working at West</p> <p>2 Carter I wasn't working at Butler. Sorry.</p> <p>3 Q. Okay.</p> <p>4 A. I can't remember exactly which one. I was</p> <p>5 working for one of the ambulance services at the time.</p> <p>6 Yes.</p> <p>7 Q. Okay. And in fact, you're even wearing an</p> <p>8 EMS shirt right now; aren't you?</p> <p>9 A. Yes, sir.</p> <p>10 Q. So you were working in some capacity doing</p> <p>11 EMS work, and you were a reserve deputy at the same</p> <p>12 time as this incident. Correct?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Okay. Did this incident have anything to do</p> <p>15 with your being a reserve deputy?</p> <p>16 A. No, sir.</p> <p>17 Q. Did this incident have anything to do with</p> <p>18 your being an EMS worker?</p> <p>19 A. No, sir.</p> <p>20 Q. Did this incident have anything to do with</p> <p>21 you being a police officer?</p> <p>22 A. No, sir.</p> <p>23 Q. One last question. And I'm sorry to pry on</p> <p>24 this. You said that Draco had passed away, it sounded</p> <p>25 like within the last few months. Is that right?</p>
Page 54	Page 56
<p>1 A. Yes, sir.</p> <p>2 Q. When you were defending your wife, were you</p> <p>3 on your way back after visiting your father-in-law?</p> <p>4 A. Yes, sir.</p> <p>5 Q. Was that a social visit?</p> <p>6 A. Yes, sir.</p> <p>7 Q. Had you been visiting him in your capacity as</p> <p>8 a police officer?</p> <p>9 A. No, sir.</p> <p>10 Q. When you left his residence, were you leaving</p> <p>11 to go and do police work?</p> <p>12 A. No, sir.</p> <p>13 Q. As of the date of this incident, you had</p> <p>14 become a reserve police officer within days of that</p> <p>15 date. Is that right?</p> <p>16 A. Yes, sir.</p> <p>17 Q. And at that same time, you were also a</p> <p>18 reserve deputy with the Ripley County Sheriff's</p> <p>19 Office. Is that right?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And you were also working with the Butler</p> <p>22 County EMS. Is that right?</p> <p>23 A. Yes, sir.</p> <p>24 Q. And you were also working with West Carter</p> <p>25 County Ambulance. Is that right?</p>	<p>1 A. Yeah. It hasn't been too long ago.</p> <p>2 Q. Okay.</p> <p>3 A. It was -- it was May or June of this year.</p> <p>4 Yeah.</p> <p>5 Q. Okay. How was his health after he was</p> <p>6 attacked by these two dogs?</p> <p>7 A. I didn't see him every day until my</p> <p>8 father-in-law brought him over to my house when he</p> <p>9 moved in with us for a while. When he brought him to</p> <p>10 my house, he was in very bad health.</p> <p>11 Q. Okay.</p> <p>12 A. They said they believed he had had a stroke.</p> <p>13 Q. Okay.</p> <p>14 A. So he was -- horrible health. He had -- he</p> <p>15 was blind. He was deaf. Had a few teeth left. I</p> <p>16 mean, he was an old dog.</p> <p>17 Q. Okay. Did you place Mr. or Mrs. Mesey under</p> <p>18 arrest that day?</p> <p>19 A. No, sir.</p> <p>20 Q. Did you issue either of them a ticket?</p> <p>21 A. No, sir.</p> <p>22 MR. PHILLIPS: All right. No other</p> <p>23 questions.</p> <p>24 MS. KAYSER: I have none. Do you have any</p> <p>25 follow-ups?</p>

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<p style="text-align: right;">Page 57</p> <p>1 MR. SCHOTTEL: Yeah. I have just two quick 2 follow-ups. 3 REDIRECT EXAMINATION 4 QUESTIONS BY MR. SCHOTTEL: 5 Q. When you were hired by the City of Van Buren 6 as a police officer, did they give you any kind of 7 firearm? 8 A. No, sir. 9 Q. Was it the -- when you were hired by the City 10 of Van Buren as a police officer, were you required to 11 purchase your own firearm? 12 A. They have guns that they can give us. We 13 have our choice. 14 Q. Okay. So you have a choice. You can use 15 your own, purchase your own, or you can use one of the 16 guns that they have at the station. Is that correct? 17 A. Yes, sir. 18 Q. All right. And were you given any citations 19 as a result of this incident with the Meseys' dogs and 20 your father-in-law's dog? 21 A. No, sir. 22 Q. You weren't given a property-damage citation? 23 A. No. Citations are handed out by city police 24 officers. This was investigated by the county. 25 Q. Okay. Were you given anything by the county?</p>	<p style="text-align: right;">Page 59</p> <p>1 CERTIFICATE OF REPORTER 2 STATE OF MISSOURI) 3) ss. 4 COUNTY OF PHELPS) 5 6 I, Sarah J. Pokorski, Certified Court 7 Reporter within and for the State of Missouri, do 8 hereby certify that the witness whose testimony 9 appears in the foregoing deposition was duly sworn by 10 me; that the testimony of said witness was taken by me 11 to the best of my ability and thereafter reduced to 12 typewriting under my direction; that I am neither 13 counsel for, related to, nor employed by any of the 14 parties to the action in which this deposition was 15 taken, and further that I am not a relative or 16 employee of any attorney or counsel employed by the 17 parties thereto, nor financially or otherwise 18 interested in the outcome of the action. 19  20 Sarah Pokorski, CCR 745 21 22 23 24 25</p>
<p style="text-align: right;">Page 58</p> <p>1 A. No. I was told that they were going to 2 possibly press charges, that I needed to speak to the 3 prosecutor. 4 Q. Okay. I believe there's a citation in 5 Exhibit 3, but I'm not going to ask about it if he 6 doesn't know about it, I guess. It was maybe never 7 filed, so -- 8 A. Yeah. I never seen anything. 9 Q. If you -- you never had to go to court for 10 anything? 11 A. No, sir. 12 Q. That's fair enough. So nothing further from 13 me. 14 MS. KAYSER: All right. We'll read and 15 sign. 16 THE REPORTER: And who gets a copy? 17 MS. KAYSER: I'll take an eTran. 18 MR. PHILLIPS: Same. 19 THE REPORTER: And what kind of copy do you 20 get, sir? 21 MS. KAYSER: What kind of copy do you want? 22 MR. SCHOTTEL: Oh, I'll take an eTran. 23 Sorry. 24 25 (Ending time of the deposition: 5:01 p.m.)</p>	<p style="text-align: right;">Page 60</p> <p>1 ALARIS LITIGATION SERVICES 2 3 September 1, 2020 4 5 Portia C. Kayser 6 Fisher, Patterson, Saylor & Smith, LLP 7 1010 Market Street 8 Suite 1650 9 St. Louis, Missouri 63101 10 11 IN RE: ROBIN MESEY and JENNIFER MESEY v. CITY OF 12 VAN BUREN, MISSOURI, et al. 13 14 Dear Ms. Kayser: 15 16 Please find enclosed your copies of the deposition of 17 CHARLES ROPER taken on August 25, 2020 in the 18 above-referenced case. Also enclosed is the original 19 signature page and errata sheets. 20 21 Please have the witness read your copy of the 22 transcript, indicate any changes and/or corrections 23 desired on the errata sheets, and sign the signature 24 page before a notary public. 25 26 Please return the errata sheets and notarized signature page within 30 days to our office at 711 N 11th Street, St. Louis, MO 63101 for filing. 27 28 Sincerely, 29 30 Sarah J. Pokorski 31 32 Enclosures</p>

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1 ERRATA SHEET
 Witness Name: CHARLES ROPER
 2 Case Name: ROBIN MESEY and JENNIFER MESEY v. CITY OF
 VAN BUREN, MISSOURI, et al.
 3 Date Taken: AUGUST 25, 2020
 4
 5 Page # _____ Line # _____
 6 Should read: _____
 7 Reason for change: _____
 8
 9 Page # _____ Line # _____
 10 Should read: _____
 11 Reason for change: _____
 12
 13 Page # _____ Line # _____
 14 Should read: _____
 15 Reason for change: _____
 16
 17 Page # _____ Line # _____
 18 Should read: _____
 19 Reason for change: _____
 20
 21 Page # _____ Line # _____
 22 Should read: _____
 23 Reason for change: _____
 24
 25 Witness Signature: _____

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1 STATE OF _____)
 2
 3 COUNTY OF _____)
 4
 5 I, CHARLES ROPER, do hereby certify:
 6 That I have read the foregoing deposition;
 7 That I have made such changes in form
 8 and/or substance to the within deposition as might
 9 be necessary to render the same true and correct;
 10 That having made such changes thereon, I
 11 hereby subscribe my name to the deposition.
 12 I declare under penalty of perjury that the
 13 foregoing is true and correct.
 14 Executed this _____ day of _____,
 15 20____, at _____.
 16
 17
 18
 19 _____
 20 CHARLES ROPER
 21
 22 _____
 23 NOTARY PUBLIC
 24 My Commission Expires:
 25

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